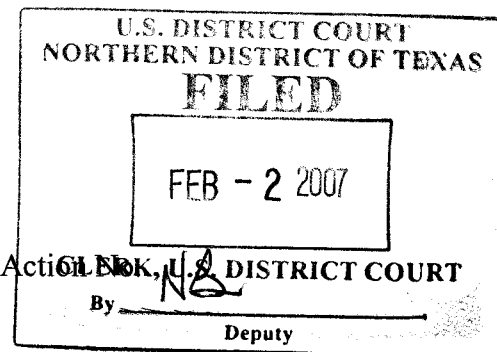


ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



DEXAS INTERNATIONAL, LTD.,

Plaintiff,

vs.

LIFETIME BRANDS, INC.,

Defendant.

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§
§
§
§
§
§
§
§
§

Civil Action
By NG Deputy

3-07CV0235-L
JURY DEMANDED

ORIGINAL COMPLAINT FOR DECLARATORY JUDGEMENT AND JURY DEMAND

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Plaintiff, Dexas International, Ltd., for its complaint against Defendant Lifetime Brands, Inc., would respectfully show the Court as follows:

INTRODUCTION

1. Plaintiff is a manufacturer and seller of kitchenware and other products located in Coppell, Texas. Plaintiff seeks a declaratory judgment of patent invalidity and patent noninfringement concerning a patent owned or licensed by Defendants. Defendant, on information and belief, is also a manufacturer and seller of kitchenware and other products, with a place of business in Westbury, New York.

THE PARTIES

2. Plaintiff Dexas International, Ltd. ("Dexas") is a limited partnership with its principal place of business at 585 South Royal Lane, Suite 200, Coppell, TX 75019-3807. Defendant Lifetime Brands, Inc. ("LBI") is a Delaware Corporation having its principal office at One Merrick Avenue, Westbury, NY 11590-6601.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction of Plaintiff's action for declaratory judgment of patent invalidity and noninfringement under the provisions of 28 U.S.C. §1338(a) and 28 U.S.C. §§2201 and 2202.

4. This Court has personal jurisdiction over Defendant, and venue is proper in this District, in that Defendant has sufficient contacts with the State of Texas and this District to satisfy Due Process. Defendant does substantial business in, and has the requisite minimum contacts with, the State of Texas and this District for general jurisdiction, by doing business through its patent attorneys at the law firm Jenkins and Gilchrist of Dallas, Texas, who were responsible for prosecuting the patent in suit. Defendant also has the additional requisite minimum contacts with the State of Texas for specific jurisdiction by causing the cease and desist letters attached as Exhibit A to be sent into this State. On information and belief, Defendant has also placed the allegedly patented products in the stream of commerce through established distribution channels, knowing and reasonably anticipating Texas and this District were likely destinations of the products, and by entering sales transactions to be performed in Texas and in this District.

COUNT I - DECLARATORY JUDGMENT

5. This is an action arising under the Patent Laws, Title 35 of the United States Code, seeking a declaratory judgment of patent invalidity and non-infringement under the provisions of 28 U.S.C. §§2201 and 2202.

6. Plaintiff is engaged in the business of designing, manufacturing, and marketing kitchenware items. One line of items marketed by Plaintiff includes several varieties of silicone rubber kitchen mitts.

7. Defendant manufactures and sells silicone rubber kitchen mitts in direct competition with Plaintiff's products.

8. There is a present justiciable controversy between Plaintiff and Defendant with respect to the validity and noninfringement of U.S. Patent No. 7,117,536 ("536 Patent") owned by Defendant. Specifically, Defendant has engaged in conduct which has placed Plaintiff under apprehension of a patent infringement suit under the '536 Patent, and Plaintiff has actually produced devices accused of infringing the Patent. Still further specifically, Defendant expressly accused Plaintiff of infringing the '536 Patent and threatened legal action in the letter attached as Exhibit A.

9. The '536 patent is invalid, because Defendant failed to meet the conditions for patentability set forth in 35 U.S.C. §§ 102 and 103. The '536 Patent is not infringed by the silicone rubber kitchen mitts designed, manufactured and sold by Plaintiff, because at least some of Plaintiff's accused products do not fall within the scope of any claims of the patent.

10. Upon information and belief, this is an exceptional case, and Plaintiff is entitled to recover its reasonable attorneys fees.

Jury Demand

Plaintiff demands a trial by jury.

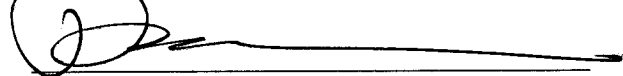
WHEREFORE, Plaintiff prays for the following:

- a. That this Court declare the '536 Patent invalid and not infringed by Plaintiff's silicone rubber kitchen mitts;
- b. That this Court declare this to be an exceptional case within the meaning of 35 U.S.C. §285; and
- c. That this Court award Plaintiff its attorney's fees, costs and

expenses in this action, along with such other and further relief as the Court may deem just.

DATED: February 1, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'D. Thompson', is written over a horizontal line.

Daniel V. Thompson
State Bar No. 19909200
THOMPSON & GUSTAVSON, L.L.P.
High Point Centre
9330 LBJ Freeway
Suite 1185
Dallas, TX 75243
(972) 479-0900

ATTORNEYS FOR PLAINTIFF



One Merrick Avenue
Westbury, NY 11590-6601

Telephone: (516) 683-6000

Sales and Marketing
Fax: (516) 683-6161

Finance and Administration
Fax: (516) 683-6116

Internet Address:
<http://www.lifetimebrands.com>

January 19, 2007

VIA UNITED PARCEL SERVICE

Daniel V. Thompson
Thompson & Gustavson, L.L.P.
9330 LBJ Freeway, Suite 1185
Dallas, Texas 75243

Re: Lifetime Brands, Inc. - U.S. Patent No. 7, 117, 536

Dear Mr. Thompson:

Pursuant to my previous correspondence sent to you, our conversation today and the email I sent to you today with attachments containing digital photos of the large and small Dexas oven mitts, it is our contention that said oven mitts infringe on Lifetime Brand's U.S. Patent No. 7,117,536.

I continue to believe that this matter can be resolved amicably. In furtherance of that goal, I respectfully request that Dexas provide the following:

1. written confirmation that they will cease and desist from selling the products;
2. inventory totals for the number of units of the products which were sold during the time period October 10, 2006 to the present date;
3. inventory totals for the number of units of the products which remain on hand, on the water, and on order with the factory in China;
4. confirmation that a letter was sent from Dexas to the manufacturer in China informing them to cease and desist from manufacturing the products.

Please advise Dexas that if we do not receive their response within ten (10) days from the date of this letter, Lifetime Brands will have no alternative but to commence legal action.

Your prompt response is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Sara A. Shindel".

Sara A. Shindel

SAS:jr

Exhibit A, page 1

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Dexas International, Ltd.	DEFENDANTS Lifetime Brands, Inc.
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES) Dallas	County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
(c) Attorney's (Firm Name, Address, and Telephone Number) Daniel V. Thompson, Thompson & Gustavson, P.C. Freeway, Suite 1185, Dallas, TX 75243	Attorney (If Known) CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS

RECEIVED

FEB - 2 2007

3-07 CV 0235-L

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) <table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)						
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION Brief description of cause: Declaratory Judgement of Patent Invalidity and Noninfringement
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY (See instructions):	JUDGE	DOCKET NUMBER
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DATE

SIGNATURE OF ATTORNEY OF RECORD

February 1, 2007
FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE